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Serial No. 10/047,169

REMARKS

Claims 1-7 and 9-31 are pending in this application. The Examiner's summary and office action do not reflect the previous cancellation of claim 8 and the addition of claim 31 in the Amendment With RCE. If the Examiner did not intend to allow claim 31, reconsideration of previously-submitted claim 31 in a new, non-final action is requested.

Objections and §112 Rejections

The Examiner has objected to the drawings, stating that the drawings do not show that "the flange is deflected in a plane generally perpendicular to the axis upon insertion of the upper hinge portion into the first lower portion." The Examiner has also rejected claims 1-3, 8, 12-14, 16, 17 and 19-30 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, apparently because the exact words that have been added to the claims do not appear verbatim in the specification. However, this is not required. "Drawings alone may provide a written description of an invention as required by Sec. 112." MPEP 2163(II)(3)(a) "Each claim limitation must be expressly, *implicitly*, or *inherently* supported in the originally filed disclosure." MPEP 2163(II)(3)(b) (Emphasis added). In this case, both the text and the drawings provide express, implicit and inherent support for the claim limitations that the Examiner is rejecting. All that is required by the written description requirement is a description in sufficient detail that "one of skill in the art can reasonably conclude that the inventor had possession of the claimed invention." MPEP 2163(I).

The Examiner argues that "it has not been adequately disclosed that the flange is deflected in a plane generally perpendicular to the axis upon insertion of the first upper hinge portion into the first lower hinge portion." Figure 4 and lines 5-15 on page 5 disclose this feature. This passage describes, "As the flat surface 25 of the first upper hinge member 24 is downwardly inserted into area 38, flat surface 25 exerts a slight interference with flange 40, causing flange 40 to flex and deform slightly inward, allowing first upper hinge member 24 to move downwardly past and below flange 40." By referencing Figure 4 while reading this passage, one would understand that the flange 40 would be deflected away from the first upper hinge member, which would be in a plane perpendicular to the axis of the hinge. One of skill in the art would reasonably

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conclude that the inventor had possession of this claimed feature. Therefore, this rejection of claim 1 should be withdrawn.

The Examiner has rejected claim 8, but this claim has been previously cancelled and incorporated into claim 5. The Examiner argues that it has not been adequately disclosed that the stop portion is deflected in a direction generally perpendicular to the axis upon insertion of the first upper hinge portion into the first lower hinge portion. The Examiner indicates, "the disclosure states that the lower hinge portion flexes and deforms slightly inward allowing the upper hinge to move downwardly," but the Examiner also notes that "there is no reference to the direction being perpendicular to an axis." However, with reference to Figure 4, it is clear that the flange 40 "stop portion" would be deflected in a direction perpendicular to the axis. Therefore, the rejection of claim 8 (now in claim 5) should be withdrawn.

With respect to the Examiner's rejection under § 112 of claim 12, this feature is disclosed on page 5 of the specification, from lines 5 to 15. Although not required, Applicant has replaced the objected-to limitation with the specific wording from the specification.

With respect to the rejection under § 112 of claims 13 and 14, it appears that the Examiner has withdrawn his specific rejection of those claims, other than their dependency from claim 12. Since claim 12 has been amended, claims 13 and 14 should also be considered to satisfy § 112.

With respect to the rejection of claim 16 and 24 under § 112, this feature is shown in Figure 5, and described in the specification on page 4, lines 25-28. It is clear from the specification and drawings that movement between the side walls and the base in a direction generally parallel to a plane generally defined by the base would be limited by the second lower hinge portion and the second upper hinge perimeter. Therefore, this rejection should be withdrawn.

With respect to the rejection under § 112 of claim 17, this feature is clearly shown in Figure 6 and described in the specification on page 6, lines 14-18. It is clear just by looking at Figure 6 that the latch striker portion snap fits into the latch receiver portion. Therefore, this rejection should be withdrawn. The rejection of claim 19 should be withdrawn for similar reasons.

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With respect to the rejection of claim 20 under § 112, Figure 6 clearly shows that the arms extend at an angle inwardly (i.e., inwardly of the container) and away from one another. Applicant has previously amended claim 20 to clarify that the term "inwardly" means "inwardly of the container." Therefore, the rejection of claim 20 should be withdrawn.

With respect to the rejections of claim 22 and 28 under § 112, page 6 of the specification from lines 10 to line 12 describes that the container is generally of a knock-down type, wherein the walls are unlatched and folded inwardly by applying external forces to the wall, as opposed to manually actuating the latch member. Although not required, the claim language is almost identical to the language in the specification. Therefore, this rejection should be withdrawn.

With respect to the rejection of claim 23 under § 112, this feature is shown in Figures 3 and 4, where it is apparent that the flange will be deflected in the plane perpendicular to the axis of the hinge. Therefore, this rejection should be withdrawn.

With respect to the rejection of claim 27 under § 112, the specification on page 6 describes that "opposed arms 62, 64 of receiver portions 56, 58 are slightly flexible such that, as striker angled surfaces 74, 76 apply a slight force to the interior of arms 62, 64, the ends thereof slightly deform and open slightly for fully receiving striker portions 56, 58 therein." (page 6, lines 14-17). Therefore, this rejection should be withdrawn.

With respect to the rejection of claim 30 under § 112, the claimed "interference portion" is supported by the "bulbous ends 82" described on page 6 and shown in Figure 6. Therefore, this rejection should be withdrawn.

Rejection under §102 over Overholt 6,631,822

The Examiner has rejected claims 1, 3, 4, 10-15, 17-19, 23-26 and 27-30 as being anticipated by Overholt (U.S. 6,631,822).

With respect to claim 1, Overholt does not disclose the elongate second upper hinge portion. There is no elongated portion on the Overholt hinge other than that which the Examiner must be calling the first elongated portion. Therefore, claim 1 is not anticipated.

Overholt does not disclose a latch receiver and latch striker with "mating beveled surfaces," as recited in claims 4 and 27. The latch receiver and latch striker are rounded in Overholt, not "beveled surfaces."

Overholt does not disclose "at least one downwardly extending arm connected to the second upper hinge portion." Again, Overholt does not disclose a second upper hinge portion at all, but the further clarification that the arm be connected to the second upper hinge portion emphasizes the lack of the second upper hinge portion. Therefore, claim 13 is not anticipated by Overholt.

Claim 14 recites a pair of arms, each abutting the second lower hinge portion. There is no second lower hinge portion in Overholt, nor is there a pair of arms, each abutting such a second lower hinge portion.

Claims 15 and 26 recite that the second lower hinge portion (or "second hinge receiver portion") includes a "concave support surface." Again it is not clear where the Examiner believes the second lower hinge portion to be, but it does not include a "concave support surface."

Claim 23 recites a first hinge pin portion and a second hinge pin portion. Overholt does not disclose a second hinge pin portion or a second hinge receiver portion "wherein the second hinge receiver portion includes a second opening correspondingly sized for receiving the second hinge pin portion therein and for limiting lateral movement between the at least one side wall and the base in a direction perpendicular to the axis of the hinge," as recited by claim 23. Therefore claim 23 is not anticipated by Overholt.

Rejection under §102 over Mouri JP 2001-130554

The Examiner has rejected claims 1-10, 15-24 and 27-30 as anticipated by Mouri (JP 2001-130554). It appears that EP 1114779 is an English equivalent.

Presumably, the Examiner is referring to the horizontal pin 203 and the connection wall 204b of Mouri as the first and second upper hinge portions, respectively. However, Mouri does not disclose a corresponding second lower hinge portion with an opening connection wall 204b does not have "a second opening correspondingly sized for receiving the second upper hinge portion therein and for limiting lateral movement between

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the side walls and the base in a direction perpendicular to an axis about which the side wall pivots relative to the base," as recited by claim 1. Therefore, claim 1 is not anticipated.

Mouri does not disclose a latch receiver and latch striker with "mating beveled surfaces," as recited in claims 4 and 27. The arms 308b in Mouri Figure 10 are not "a receiving area defined by a plurality of beveled surfaces," as claimed.

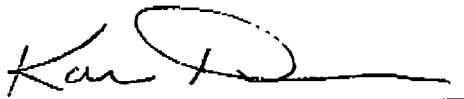
Claims 5 and 15 recite "a concave support surface for supporting the second upper hinge portion." The Examiner presumably calls the connection wall 204b the "second upper hinge portion," but there is no concave support surface below it. Therefore, claim 5 is not anticipated by Mouri.

CONCLUSION

Please charge \$90 to Deposit Account No. 50-1984 for five additional claims in excess of twenty. If any additional fees or extensions are due, please charge all fees to deposit account no. 50-1984.

Respectfully submitted,

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